

Appln. No.: 09/718,712
Amtd. Dated January 9, 2004
Reply to Office Action dated November 17, 2003

Remarks/Arguments

Reconsideration of this Application is requested.

Claims 1-19 have been rejected by the Examiner under 35 USC §103(a) as being unpatentable over Fisher (U.S. Patent No. 6,047,264) in view of Miller (U.S. Patent Application Publication No. 2002/0026357).

Fisher, et al. discloses the following in his abstract:

"A method is disclosed for automatically updating the status of customers' orders and shipments via electronic mail without using a human attendant to create and send the electronic mail messages. Preferably implemented in software, the updating method allows a large set of customers to be periodically updated over a computer or communications network via electronic mail. The method utilizes a database for maintaining order and shipping status and other relevant information."

In lines 9-32 of column 2 which read as follows, Fisher explains what relevant information is:

"For example, when a customer places an order with a merchant, the customer provides the merchant with an electronic mail address. Then, the merchant ships the order via a common carrier such as FedEx, UPS or the postal service. The system of the present invention periodically interrogates the carrier's information system via a computer network to check the transit status of the order. When the transit status, location, or other relevant information changes, the system automatically composes and transmits an electronic mail message to the customer, informing the customer of the status of the shipment. The system may send messages notifying the customer of such common events as (1) when the order is initially sent to the shipper, (2) when the shipment leaves the shipper's

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distribution center, (3) the current or approximate physical location of the shipment once the shipment is in transit (e.g., headed westbound on Interstate 70 between St. Louis and Kansas City), (4) when the shipment reaches a distribution terminal for transfer to another truck or form of carriage, and (5) when the shipment is received at the customer's location. Notifying business customers that the shipment has been received at a site is especially important because it often takes one to two days for a company's internal mail system to deliver a package to the customer's desk once it has been received at the site's receiving dock, front office or mail room."

Miller, et al. discloses the following in paragraph [0008]:

"[0008] A system, method and article of manufacture are provided for targeting a promotion to a user based on a user-entered product identifier. A product identifier is received from a client device of a user. The product identifier is associated with a particular product. A promotional offer for the product is retrieved, where the product is associated with the product identifier. Such promotional offers can include a rebate, a sale offer, and a discount offer, for example. The promotional offer is stored on a network data site. The user is allowed to access the promotional offer on the network data site using a user identifier such as a login name with an associated password."

Neither Fisher nor Miller, taken separately or together, discloses or anticipates step (e) of claim 1 as amended; step (g) of claim 7 as amended; or step (d) of claim 14, as amended. The cited art do not disclose or anticipate gathering at a data center information from a sender web page that includes similar or collateral products and/or services offered by the sender.

On page 6 of the November 17, 2003, Final Rejection, the Examiner stated that:

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"The Attorney argues that neither Fisher nor Miller, taken separately or together, discloses or anticipates step (e) of claim 1 as amended; step (g) of claim 7 as amended; or step (d) of claim 14, as amended, i.e., "Gathering at a data center information from a sender web page that includes similar or collateral products and/or services offered by the sender."

The Examiner notes, this newly added language, can be classified as nonfunctional descriptive language that does not effect the method step in a patentable significant way. Moreover, paragraph 0008 of Miller discloses the use of a promotional offer than can include a rebate, a sale offer, and a discount offer, for example. The newly added recitation is presented in alternative form. the offer of a rebate can be construed as a tendered service, and therefore reads on the claim limitation. Each claim must be given its broadest reasonable interpretation in light of and consistent with the written description."

The language that was added to step (e) of claim 1 and step (g) of claim 7 in the November 10, 2003, Amendment, namely, "that includes similar or collateral products and/or services offered by the sender" is language that effects [Ron: I know the Examiner used this verb, but should it be "affects"?] the method step in a significant way. Furthermore, the offer of a rebate, a sales offer and a discount offer is not the same as gathering at a data center information from a sender web page that includes similar or collateral products and/or services offered by the sender.

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In view of the above, claims 1-5, 7-11 and 13-18 are patentable. If the Examiner has any questions, would he please contact the undersigned at the telephone number noted below.

Respectfully submitted,



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